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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,080	07/24/2003	David C. Eby	29618/EL013	9963
4743 7590 11/02/2007 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER QUINN, COLLEEN M	
			ART UNIT 3634	PAPER NUMBER
			MAIL DATE 11/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/626,080

Applicant(s)

EBY ET AL.

Examiner

Colleen M. Quinn

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-21, 24, 27, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-21, 24, 27, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6 and 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US 2,177,071) in view of Miller (US 498,283) and Freiberg (US 2,888,932). Klein et al. discloses a desktop file organizer comprising a plate (13) including a first side and second side (figure 3) and a top side and a bottom side (figure 6), a plurality of vanes (12) having a first end and a second end (figure 8) and attached the length of the plate, starting from the first end (figure 3) wherein each vane includes two tabs (12aa) insertable into slots (16) along the plate and received on the underside of the plate (figure 2) for retaining the vanes. Although Klein et al. do not specifically disclose the slots to be spaced at one inch intervals, it would be an obvious design choice to one of ordinary skill in the art, to space the slots at whatever interval necessary to fulfill the user's needs for the organizer. Klein et al. fail to disclose a handle, a band retaining the vanes and a tongue on each vane for limiting the movement of the vanes.

However, Miller teaches a file organizing system including a plate (7) having a first end and a second end, and first and second sides (figure 3), flexible vanes (unnumbered stack of papers), a handle (16) disposed in the plate and extending away from the vanes (figure 3) for handling the organizer, and an elastic band (12') for

retaining the vanes in position wherein the band has its ends disposed in the notches of holes (8) on the second end of the plate (figure 3) and extended to a catch (14) disposed in a hole in the other end of the plate, wherein the band constrains the vanes against each other.

Additionally, Freiberg teaches a file organizer wherein each of the plurality of vanes not only includes two insertable tabs (14,16) but also include a plurality of tongues (26, 28, 29) intended to limit the movement of each vane about the slots once the vanes are inserted into their respective slots.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the organizer of Klein et al. with an elastic band and a handle as taught by Miller and vane tongues as taught by Freiberg in order to provide a file organizer easily transported from one location to another and having a means for constraining a plurality of vanes against the plate.

Claims 7-9, 24, 27, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US 2,177,071) in view of Miller (US 498,283). Klein et al. discloses a desktop file organizer comprising a plate (13) including a first side and second side (figure 3), a top side and a bottom side (figure 6), first and second foldable sections (figure 2), and a plurality of vanes (12) having a first end and a second end (figure 8) and attached the length of the plate, starting from the first end (figure 3) wherein each vane includes two tabs (12aa) insertable into slots (16) along the plate

and received on the underside of the plate (figure 2) for retaining the vanes. Klein et al. fail to disclose a handle on the plate or a band retaining the vanes.

However, Miller teaches a file organizing system including a plate (7) having a first end and a second end, and first and second sides (figure 3), flexible vanes (unnumbered stack of papers), a handle (16) disposed in the plate and extending away from the vanes (figure 3) for handling the organizer, and an elastic band (12') for retaining the vanes in position wherein the band has its ends disposed in the notches of holes (8) on the second end of the plate (figure 3) and extended to a catch (14) disposed in a hole in the other end of the plate, wherein the band constrains the vanes against each other.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. and Miller as applied to claims 7-9, 24, 27, 29 and 30 above, and further in view of Ainsworth (US 2,149,489). Neither Klein et al. nor Miller disclose a stiff material disposed on the band for reinforcement.

However, Ainsworth teaches a band (16) for retaining a plurality of vanes against a plate (figure 1) wherein the band can include a metal ring at its ends (col. 2, lines 13-38) for reinforcement and providing a catch portion that won't wear as quickly as the elastic alone might.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the organizer of Klein et al. and Miller, as advanced above, with metal reinforcement on

the elastic band in order to provide a stronger, more wear resistant catch area on the band for prolonged use.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571) 272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ
10/30/07



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER